1	BILL LOCKYER, Attorney General	
2	of the State of California JOSE R. GUERRERO	
3	Supervising Deputy Attorney General CATHERINE E. SANTILLAN	
4	Senior Legal Analyst California Department of Justice	
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004	
6	Telephone: (415) 703-5579 Facsimile: (415) 703-5480	
7	Legal Representatives for Complainant	
8	BEFORE THE	
9	RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10	In the Matter of the Accusation Against:	Case No. R-1988
11	DIANA L. HOMYAK	STIPULATED SURRENDER OF
12	5425 144th Way NW, Unit 18 Ramsey Minnesota 55303	LICENSE AND ORDER
13	Kanisey Minnesota 33303	
14	Respiratory Care Practitioner License No. 22926	
15	Respondent.	
16		
17	IT IS HEREBY STIPULATED AND	AGREED by and between the parties in this
18	proceeding that the following matters are true:	
19	PARTIE	SS
20	1. Stephanie Nunez (Complainar	at) is the Executive Officer of the Respiratory
21	Care Board of California. She brought this action so	lely in her official capacity and is represented
22	in this matter by Bill Lockyer, Attorney General of the	ne State of California, by Catherine E.
23	Santillan, Senior Legal Analyst.	
24	2. Diana L. Homyak (Responden	at) is representing herself in this proceeding
25	and has chosen not to exercise her right to be represe	ented by counsel.
26	3. On or about April 9, 2003, the	e Respiratory Care Board of California issued
27	Respiratory Care Practitioner License No. 22926 to	Diana L. Homyak (Respondent). The
28	License was in full force and effect at all times releva	nt to the charges brought in Accusation No.

R-1998 and will expire on February 28, 2006, unless renewed.

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#### JURISDICTION

4. Accusation No. R-1998 was filed before the Respiratory Care Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 28, 2005. Respondent has not filed a Notice of Defense contesting the Accusation. A copy of Accusation No. R-1998 is attached as **Exhibit A** and incorporated herein by reference.

#### **ADVISEMENT AND WAIVERS**

- Respondent has carefully read, and understands the charges and allegations
   Accusation No. R-1998. Respondent also has carefully read, and understands the effects of
   this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### **CULPABILITY**

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. R-1998, agrees that cause exists for discipline and hereby surrenders her Respiratory Care Practitioner License No. 22926 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Respiratory Care Practitioner License without further process.

#### **CONTINGENCY**

10. This stipulation shall be subject to approval by the Respiratory Care Board.
Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory
Care Board of California may communicate directly with the Board regarding this stipulation and
surrender, without notice to or participation by Respondent. By signing the stipulation,
Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be
of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
the parties, and the Board shall not be disqualified from further action by having considered this
matter.

- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

#### **ORDER**

IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 22926, issued to Respondent Diana L. Homyak, is surrendered and accepted by the Respiratory Care Board.

- 13. The surrender of Respondent's Respiratory Care Practitioner License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.
- 14. Respondent shall lose all rights and privileges as a respiratory care practitioner in California as of the effective date of the Board's Decision and Order.

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1	15. Respondent has mailed her license to the Board on or before the effective	
2	date of the Decision and Order.	
3	16. Respondent fully understands and agrees that if she ever files an application	
4	for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a	
5	petition for reinstatement. Before respondent's petition for reinstatement will be considered, she	
6	agrees to pay costs in the amount of \$1,840.00. Respondent must comply with all the laws,	
7	regulations and procedures for reinstatement of a revoked license in effect at the time the petition	
8	is filed, and all of the charges and allegations contained in Accusation No. R-1998 shall be	
9	deemed to be true, correct and admitted by Respondent when the Board determines whether to	
10	grant or deny the petition.	
11	<u>ACCEPTANCE</u>	
12	I have carefully read the Stipulated Surrender of License and Order. I understand	
13	the stipulation and the effect it will have on my Respiratory Care Practitioner License. I enter	
14	into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and	
15	agree to be bound by the Decision and Order of the Respiratory Care Board.	
16	DATED: October 19, 2005	
17		
18	<u>Original signed by:</u> Diana L. Homyak	
19	Respondent	
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1	<u>ENDORSEMENT</u>
2	The foregoing Stipulated Surrender of License and Order is hereby respectfully
3	submitted for consideration by the Respiratory Care Board of the Department of Consumer
4	Affairs.
5	
6	DATED: October 25, 2005
7	
8	BILL LOCKYER, Attorney General of the State of California
9	of the State of Camornia
10	Original signed by:
11	Original signed by: CATHERINE E. SANTILLAN Senior Legal Analyst
12	Legal Representatives for Complainant
13	Legal Representatives for Complaniant
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### BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. R-1998

DIANA L. HOMYAK 5425 144th Way NW, Unit 18 Ramsey Minnesota 55303

#### **DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on <u>January 2, 2006</u>.

It is so ORDERED December 22, 2005.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA